

Claim No. 11-04361

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUN 7 1999

Department of Water Resources
Eastern Region

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. The filing of this claim does not confirm the water right claimed. Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that Indian Creek Ranch LLC

(Name of Claimant)

INDIAN CREEK RANCH, PO BOX 182, ST CHARLES ID 83272

(Mailing Address)

Telephone No: (208)945-2649

(Zip Code)

claims a right to the diversion and beneficial use of surface or ground water. The extent and nature of said claim is as follows:

1. Date of Priority: (When the water was first applied to beneficial use) 4-1-1898
A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

SPRING

tributary to SINKS

3. Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs or af)

(Irrigation, Domestic, Stock, Etc.)

(Both dates inclusive)
(MM/DD) (MM/DD)

Quantity	<u>0.10 cfs</u>	Use	<u>IRRIGATION</u>	Period of Use From	<u>4-15</u>	to	<u>10-15</u>
Quantity	<u>0.02 cfs</u>	Use	<u>STOCKWATER</u>	Period of Use From	<u>1-1</u>	to	<u>12-31</u>
Quantity		Use		Period of Use From		to	
Quantity		Use		Period of Use From		to	

4. 0.12 cfs TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot 25 Township 15S Range 44E B.M., BEDE LAKE County; additional points of diversion, if any:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.

SPRING BOX WITH PIPELINE TO IRRIGATION SYSTEM AND STOCKWATER FACILITIES FOR 100 HD OF RANGE CATTLE. SYSTEM ALSO SUPPLIES SMALL STOCK POND (LESS THAN 1/2 ACRE SURFACE AREA) AT PLACE OF USE.

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.
D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SE	SW	
15S	44E	25			S														
					5 ac.														5 ac.

TOTAL ACRES _____

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific. Stockwater troughs, small stock pond at place of use

NOTE: Include here the type and number of stock watered: 100 HD. Range Cattle

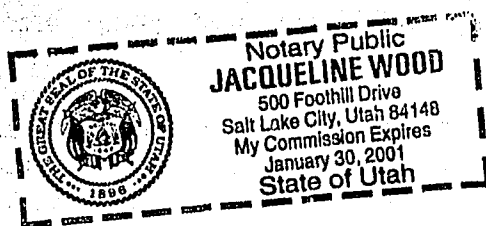
7. Remarks: _____
8. Map - Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an aerial photograph of the place of use if available.

State of Utah)
County of Salt Lake) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Jacques R. Nebeker Manager
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 4th day of June, 1999.

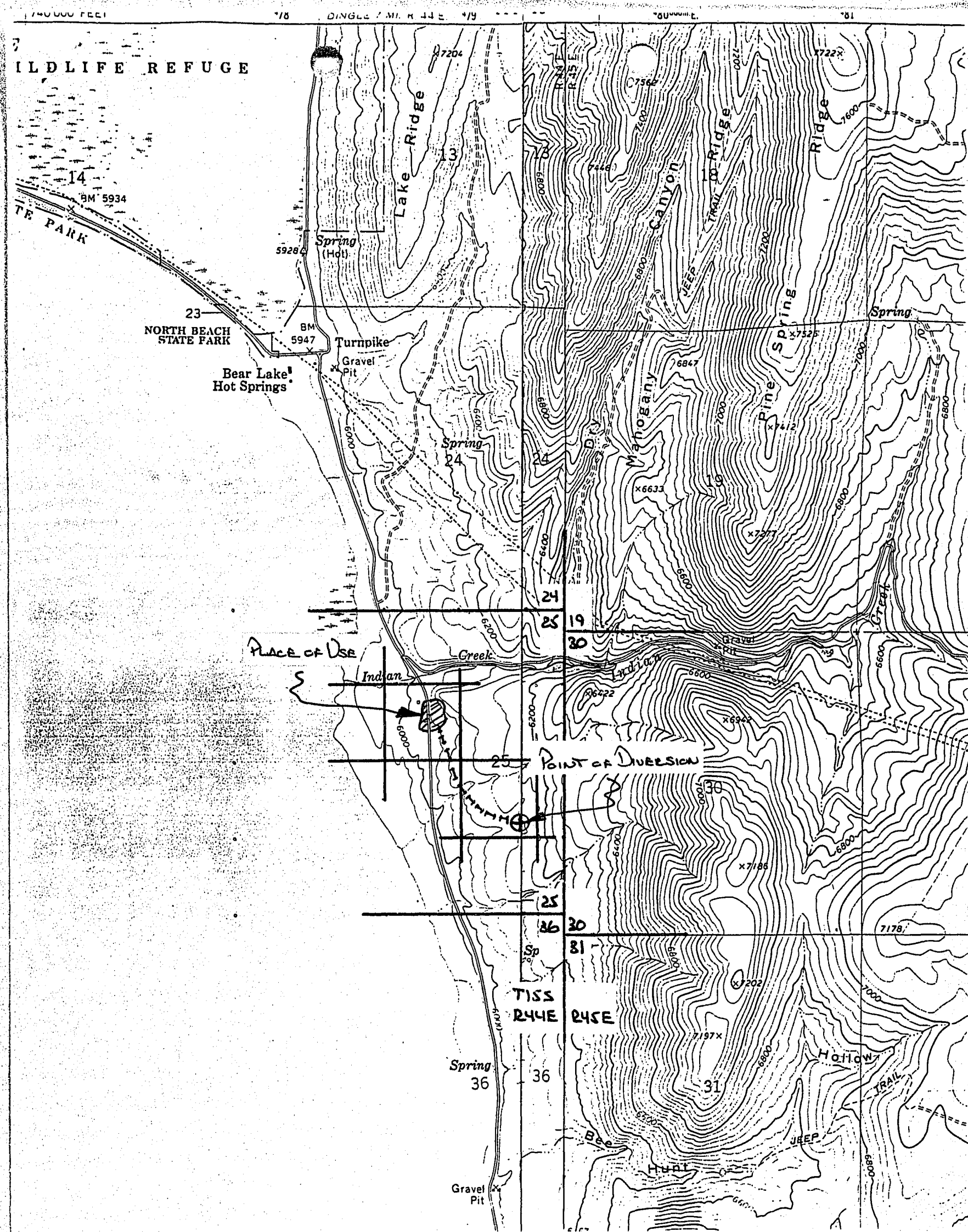


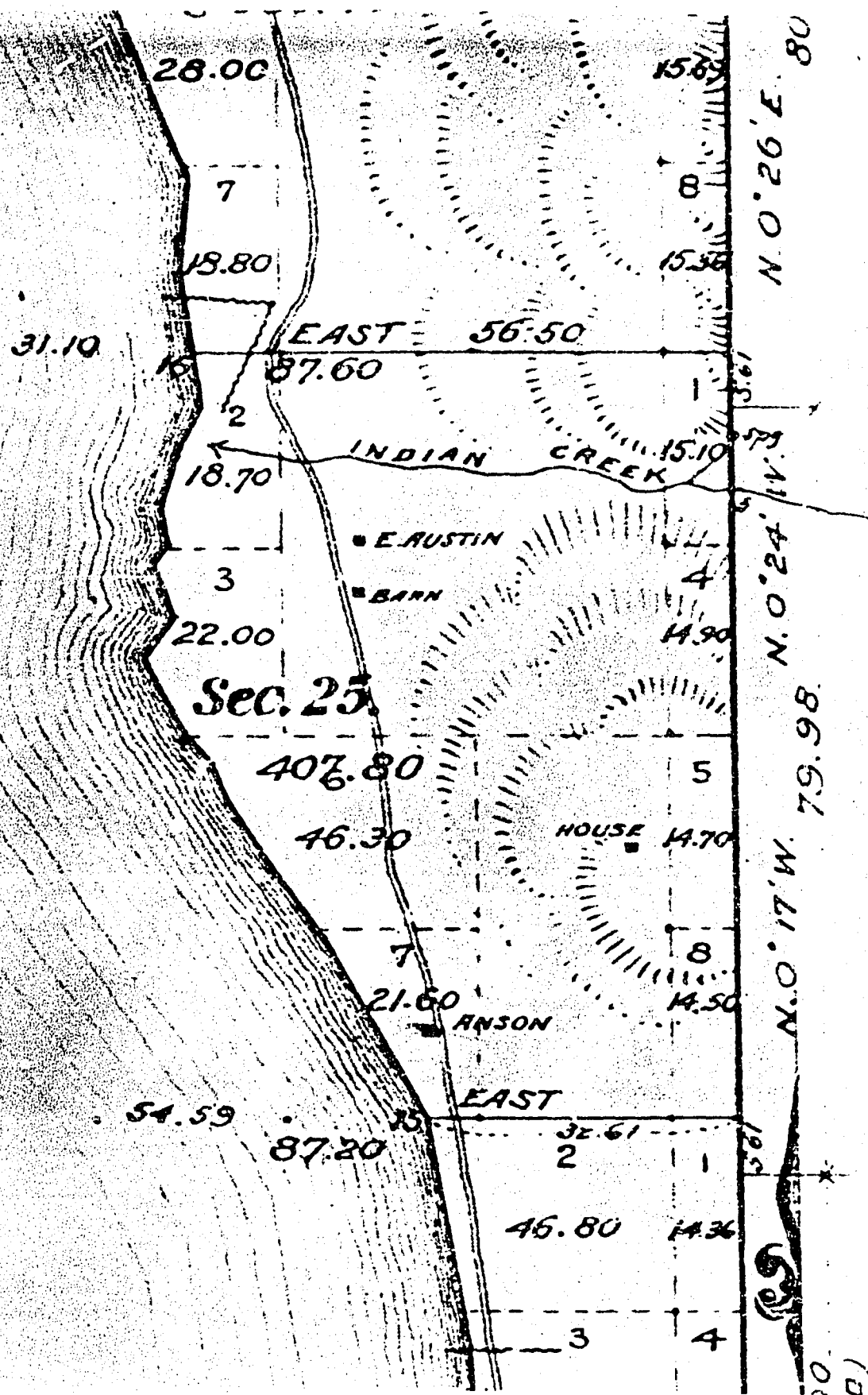
Jacqueline Wood
Notary Public
Residing at: Salt Lake, Utah
My commission expires: January 30, 2001

FOR DEPARTMENT USE ONLY

Received by PRM Date 6-7-99
Prelim. check by _____ Date _____
Fee \$ 250.00 Receipt # 8025042
Receipt prepared by PRM Date 6-7-99

Published in News Examiner
Publication dates June 17 & 24, 1999
Publication checked by SV Date 7-9-99
Exceptions filed by _____





Jonathan R. Nebeker
763 1st Ave
Salt Lake City, UT 84103

6/4/99

State of Idaho Department of Water Resources
900N Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Dear Mr. Meyer,

Thank you for your help with these claims and applications.

I am a manager for both Indian Creek Ranch, LLC and Four Pines, LLC. Both of these entities are Utah companies registered in Idaho.

Members of Indian Creek Ranch, LLC are:

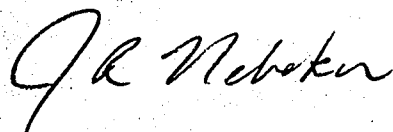
Jonathan R. Nebeker
Jason R. Nebeker
Michael R. Nebeker
Adam R. Nebeker

Members of Four Pines, LLC are:

Conrad Nebeker
Richard Webber
James Smith

Please call me (Pager 801-339-3830) or Conrad Nebeker (801-621-2440 or 208-945-2649) if you have any questions.

Sincerely,



Jonathan R. Nebeker, MD

RECEIVED

JUN 07 1999

Department of Water Resources
Eastern Region



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 9, 1999

JODY L WILLIAMS
KRUSE LANDA & MAYCOCK LLC
50 W BROADWAY 8TH FLOOR
SALT LAKE CITY UT 84101

RE: Claims to a Water Right #11-04361, 11-04362 and 11-04363
Applications for Permit #11-07447 and 11-07448

Dear Jody:

We are enclosing a copy of the application (s) that may be of interest to your department. Please review the application (s) and submit any comments you may have to our Department as soon as possible. The last date of protest is July 6, 1999, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ: sc

Enc.

NOTICE OF CLAIMS TO WATER RIGHTS

The Following claim(s) have been filed on water rights created
by diversion and beneficial use:

11-04361

INDIAN CREEK RANCHES LLC
PO BOX 182
ST CHARLES, ID 83272

Source: SPRING

Tributary: SINKS

Diversion Pt: SENESE Sec 25 T 15S R 44E in BEAR LAKE County.

Use: IRRIGATION	(	0.100 CFS)
STOCKWATER	(	0.020 CFS)
Total Diversion:	(	0.120 CFS)

Claimed Priority: 4/ 1/1898

In: BEAR LAKE County
T15S R44E S25 SWNE

5.0 ACRES TOTAL

Exceptions to a claim may be filed with the Department of Water
Resources, Eastern Region, 900 N Skyline Ste A, Idaho Falls, Idaho 83402.

Published: 6/17/1999 & 6/24/1999

KARL J. DREHER, Director



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JUNE 10, 1999

Legal Notices Department
THE NEWS-EXAMINER
P.O. BOX 278
MONTPELIER, ID 83254

Dear Legal Dept.:

Enclosed you will find legal notices which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JULY 6, 1999.

Yours truly,

Sharla Cox
Senior Secretary

Encl.

Mailed
6/10/99
SC



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 10, 1999

IDAHO FISH & GAME
1345 BARTON RD
POCATELLO ID 83201

RE: Applications for permit #11-07447 and 11-07448
Claims to a Water Right #11-04361, 11-04362 and 11-04363

Dear Jerome Hansen:

We are enclosing a copy of the application (s) that may be of interest to your department. Please review the application (s) and submit any comments you may have to our Department as soon as possible. The last date of protest is July 6, 1999, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ: sc

Enc.



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 10, 1999

PETE PETERSON
WATERMASTER #11
2483 RIVERDALE
PRESTON ID 83263

RE: Claims to a Water Right #11-04361, 11-04362 and 11-04363

Dear Pete:

Please find enclosed a copy of the above referenced application. Please review the application and submit any comments you may have to our Department by July 6, 1999.

If you have any questions, please feel free to contact us.
Thank you for your cooperation in this matter.

Respectfully submitted,

Harold W. Jones
Water Right Supervisor

HWJ:sc

enc.

No 5767

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

ss.

County of Bear Lake

Rose A. Moosman

being duly sworn,

deposes and says:

That he is the Editor of THE NEWS-EXAMINER, a weekly newspaper published at Montpelier, in the County of Bear Lake and State of Idaho; and said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Montpelier; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for 2 consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

June 16, 1999, and ending with the issue of June 23, 1999.

Rose A. Moosman
Fees, \$87.94

Subscribed and sworn to before me this 23 day of June

[Signature]
Notary Public, Residing at Montpelier, Idaho

My Commission Expires August 23, 2003

NOTICE OF CLAIMS TO WATER RIGHT

The following claim(s) have been filed on water rights created by diversion and beneficial use:

11-04361
INDIAN CREEK RANCHES LLC
PO BOX 182
ST. CHARLES, ID 83272

Source: SPRING
Tributary: SINKS
Diversion Pt: SENESE Sec 25 T 15S R 44E in BEAR LAKE County.
Use: IRRIGATION (0.100 CFS)
STOCKWATER (0.020 CFS)
Total Diversion: (0.120 CFS)
Claimed Priority: 4/1/1898
In: BEAR LAKE County
R15S R44E S25 SWNE
5.0 ACRES TOTAL

11-04362
INDIAN CREEK RANCH LLC
PO BOX 182
ST. CHARLES, ID 83272

Source: SPRING
Tributary: INDIAN CREEK
Diversion Pt: NWNENE SEC 30 T 15S R 45E in BEAR LAKE County.
Use: STOCKWATER (0.010 CFS)
DOMESTIC (0.080 CFS)
Total Diversion: (0.090 CFS)
Claimed Priority: 4/1/1970
In: BEAR LAKE County
T15S R44E S25 SWNE

11-04363
FOUR PINES LLC
INDIAN CREEK RANCH
PO BOX 182
ST. CHARLES, ID 83272

Source: UNNAMED STREAM
Tributary: SINKS
Diversion Pt: NWNENE Sec 10 T 15S R 45E in BEAR LAKE County.
Use: STOCKWATER (0.110 CFS)
DOMESTIC (0.060 CFS)
Total Diversion: (0.130 CFS)
Claimed Priority: 4/15/1877
In: BEAR LAKE County
T15S R45E S11 NWNW

Exceptions to a claim may be filed with the Department of Water Resources, Eastern Region, 900 N Skyline Ste A, Idaho Falls, Idaho 83402.

KARL J. DREHER
Director

Publish June 16, 23, 1999 —
Legal No. 5767.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

JULY 8, 1999

KARL J. DREHER
DIRECTOR

INDIAN CREEK RANCHES LLC
PO BOX 182
ST CHARLES, ID 83272

Re: Claim No. 11-04361

Dear Claimants(s):

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, Idaho Code. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have the information or evidence added at any time. Please refer to the claim identification number when corresponding with the office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Sincerely,

RONALD D CARLSON
Eastern Region Manager

Enclosure

JUL 21 1999

Department of Water Resources

RECEIVED

JUL 12 1999

**Department of Water Resources
Eastern Region**

Attorneys for PacifiCorp dba Utah Power and Light

**BEFORE THE
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO**

**In the Matter of
Claims to Water Right
Nos. 11-04361 & 11-04362
Indian Creek Ranch LLC
Claimant**

**Exception of PacifiCorp,
an Oregon Corporation, dba
Utah Power & Light Company,
PacifiCorp**

1. Doug Bornemeier, for PacifiCorp being duly sworn, states as follows: PacifiCorp, an Oregon corporation doing business in Idaho as Utah Power & Light Company ("PacifiCorp"), 1407 West North Temple, Suite 270, Salt Lake City, Utah 84140, hereby files this exception before the Department of Water Resources in the above-referenced proceedings. Please send notices and correspondence regarding this exception to:

Doug Bornemeier
Senior Lead Planner
PacifiCorp
825 NE Multnomah, Suite 1500
Portland, OR 97232

502542

With a copy to:

Jody L. Williams
Kruse, Landa & Maycock
50 West Broadway, #800
Salt Lake City, UT 84101

2. PacifiCorp owns water rights in the Bear River, the tributaries to Bear Lake, and Bear Lake decreed in the matter of *Utah Power & Light Company v. The Last Chance Canal Company, Limited, et al*, in Equity No. 203, July 14, 1920, and *Utah Power & Light Company v. Richmond Irrigation Company, et al*, February 21, 1922, as well as other rights in the Bear River below Claimant's proposed point of diversion.

3. Diversion of tributary inflow to Bear Lake, such as that claimed by the Claimant, will directly impact PacifiCorp's water rights in Bear Lake. When PacifiCorp is required to release Bear Lake storage water to satisfy its contracts, less water will be available to replace it in Bear Lake.

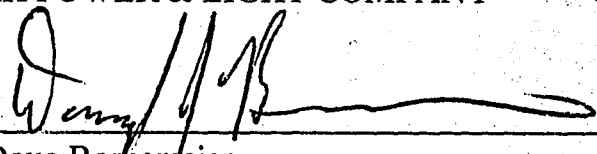
4. PacifiCorp has entered into many contracts with irrigators in Idaho and Utah along the Bear River, for supply of supplemental storage water from Bear Lake when the natural flow of the Bear River is insufficient to satisfy existing water rights. However, during drought periods, high irrigation demands cause the level of Bear Lake to drop significantly, endangering PacifiCorp's ability to continue to deliver supplemental irrigation water pursuant to its contracts.

5. In addition to diminishing the quantity of Bear Lake water available to satisfy prior existing water rights and contracts, PacifiCorp believes that granting the above-referenced claim would conflict with the local public interest in the three following areas by reducing surface water inflow into Bear Lake: First, reliance by existing users on supplemental irrigation water delivered from Bear Lake will be impaired. Second, when the level of Bear Lake drops in extended droughts, recreation and other non-consumptive uses at the lake are adversely affected. The Idaho State Parks & Recreation boat launch becomes unusable; the State park receives little use due to its distance from the water; facilities built with State funds are unusable, and visitor days and the attendant revenue they produce for the State plummet. The local economy at the lake suffers. Third, traditional habitat for indigenous fish in Bear Lake is decreased. Other wildlife species which depend on the lake will have similar problems due to habitat loss. The spread of noxious weeds and tamarisk is accelerated along the lake shore.

WHEREFORE, PacifiCorp respectfully states this exception to the above-referenced applications and requests that they be denied.

DATED this 8th day of July, 1999.

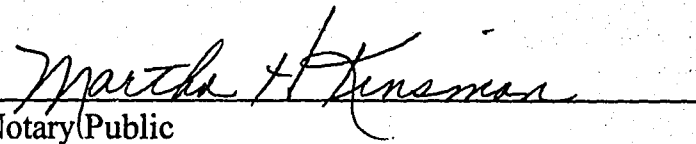
PACIFICORP, dba
UTAH POWER & LIGHT COMPANY

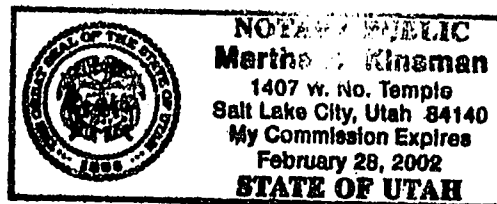
By 
Doug Bornemeier
Senior Lead Planner
PacifiCorp
825 NE Multnomah, Suite 1500
Portland, OR 97232
Telephone: (503) 813-6668

STATE OF)
) :ss.
COUNTY OF)

On this 8th day of July, 1999, before me, the undersigned, a notary public in and for said state, personally appeared Doug Bornemeier, known to me to be the person whose name is subscribed to the within instrument, who duly acknowledged to me that he executed the same.

WITNESS my hand and official seal.


Notary Public



MAILING CERTIFICATE

On this 8th day of July, 1999, I mailed a true and correct copy of the foregoing Exception, postage prepaid, to:

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

Randall M. Weiner
Ecological Consultants for the Public
Interest
1942 Broadway, Suite 408
Boulder, CO 80302

Indian Creek Ranch
P O Box 182
St. Charles, ID 83272

Jim Kimbal
P.O. Box 145
St. Charles, Idaho 83272

Randall Landolt
PacifiCorp
1407 West North Temple, Room 199
Salt Lake City, Utah 84140

Brent Rose, Esq.
Clyde, Snow & Swenson
201 South Main, Suite 1000
Salt Lake City, Utah 84111

Randall C. Budge, Esq.
Racine, Olson, Nye, Cooper & Budge
Corner First & Center
P.O. Box 1391
Pocatello, Idaho 83204

Cheryl C. Williss, Chief
Division of Water Resources
P.O. Box 25486
Denver Federal Building Mail Stop 60189
Denver, Colorado 80225

Bear River Water Users Association
c/o J. Kent Horton
587 Wasatch Blvd.
Smithfield, Utah 84335

Barbara Wallen



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

July 20, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JODY L WILLIAMS, ESQ
KRUSE LANDA & MAYCOCK LLC
50 W BROADWAY STE 800
SALT LAKE CITY UT 84101

RE: Claims to a Water Right 11-04361, 11-04362 and 11-04363

Dear Jody:

Your exception against the above referenced claims has been received and a copy has been sent to the applicant.

If this office can be of further assistance, please contact us.

Sincerely,

Harold W Jones
Water Right Supervisor

HWJ::sc



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

July 20, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

INDIAN CREEK RANCH LLC
PO BOX 182
ST CHARLES ID 83272

RE: Claim No. 11-04361, 11-04362 and 11-04363

Dear Applicant:

We have received the exceptions dated July 8, 1999, filed against the above referenced claims to a water right. The following is a quote from the provisions of the Idaho Code under which these claims have been filed:

42-244. Recording of claims by department - Corrections. - At any time after the filing of a claim under the previous section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the department of water resources and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the department of water resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original, which shall be recorded and numbered by the department the same as the original, and for which no additional filing fees shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

If you have any questions regarding this matter, please contact us.

Very truly yours,

HAROLD W. JONES
Water Right Supervisor

HWJ/sc